BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Crescent Resources Dist. 8, Map 62, Control Map 62, Parcel 14.00, S.I. 000 Commercial Property Tax Year 2007	)) Williamson County)))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$15,058,400	$ -0-	$15,058,400	$6,023,360

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 7, 2008 in Franklin, Tennessee. The taxpayer was represented by registered agent L. Stephen Nelson. The assessor of property, Dennis Anglin, represented himself. Also in attendance at the hearing were Debbie Smith and Debbie Kennedy who assisted Mr. Nelson and Mr. Anglin respectively.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 215.12 acre tract located on Gillespie Road in Franklin, Tennessee. Subject property is bordered by I-65 and McEwen Drive and bisected by Carothers Road.

Subject property was originally part of two tracts containing a total of 277.64 acres the taxpayer purchased from SunTrust Bank in 1997 and 1998. The taxpayer subsequently had the two tracts combined into a single parcel. The reduction in acreage resulted from the sale of 50.12 acres to Nissan in 2005 and the construction of an office building in 2006-2007 known as Eight Corporate Centre.

At the time subject property was purchased, SunTrust Bank leased the acreage to Alfred Ladd "for farming purposes only." The taxpayer assumed the leases which were renewed annually until Mr. Ladd's death in 2005. Mr. Ladd was partners with his nephew, William B. Moss. After the death of Mr. Ladd, Mr. Moss took over his farming contracts. In 2007, Mr. Moss and the taxpayer signed a new lease.

The various leases provided that the lessees would pay the taxpayer as rental "an amount equal to one-fourth (1/4) of its gross crop sales harvested by Lessee from time to time on the [p]roperty." Pursuant to this provision, Mr. Ladd and/or Mr. Moss have made the following payments to the taxpayer since 2000:

August 3, 2000	$2,253.21	
October 15, 2001	$2,110.00	
December 12, 2002	$1,650.48	
January 5, 2005	$2,757.44	(payment for 2004)
October 24, 2005	$4,219.88	
December 6, 2006	$1,793.01	

Following its purchase of subject property, the taxpayer filed a greenbelt application with the assessor of property. The assessor approved the application and subject property received preferential assessment under the greenbelt law.[1] The assessor removed subject property from greenbelt effective with tax year 2007 and rollback taxes were levied for tax years 2004, 2005 and 2006.

The taxpayer contended that subject property should not have been removed from the greenbelt program. The taxpayer seeks to have greenbelt reinstated and the rollback taxes set aside. The taxpayer essentially argued that subject property qualifies for preferential assessment for two reasons. First, subject property continues to be used to grow crops as it has been since its purchase. Second, subject property has continuously generated agricultural income averaging at least $1,500 per year over any three year period. Mr. Moss stated in his affidavit that no crops were planted in 2007 due to the drought. Mr. Nelson and Ms. Smith also testified that they have personally seen crops growing on subject property during the relevant time period.

The assessor of property contended that on January 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a), subject property was not being used to grow crops. Mr. Anglin testified that he personally drove throughout subject property in 2006 and 2007 and observed no farming activity. Mr. Anglin stated that, in fact, he observed survey markers and the like. Moreover, Ms. Kennedy asserted that much of the acreage has effectively become woodland due to the lack of cultivation.

The administrative judge finds that the ultimate issue in this appeal concerns whether subject property qualifies for preferential assessment under the greenbelt law as "agricultural land." That term is defined in Tenn. Code Ann. § 67-5-1004(1) as follows:

> **(A)** 'Agricultural land' means land that meets the minimum size requirements specified in subdivision (1)(B) and that either:
>
> **(i)** *Constitutes a farm unit engaged in the production or growing of agricultural products*; or
>
> **(ii)** Has been farmed by the owner or the owner's parent or spouse for at least twenty-five (25) years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.

[1] See Tenn. Code Ann. § 67-5-1001, et seq.

(B) To be eligible as agricultural land, property must meet minimum size requirements as follows: it must consist either of a single tract of at least fifteen (15) acres, including woodlands and wastelands, or two (2) noncontiguous tracts within the same county, including woodlands and wastelands, one (1) of which is at least fifteen (15) acres and the other being at least ten (10) acres and together constituting a farm unit;

[Emphasis supplied]

The administrative judge finds that in deciding whether a particular parcel constitutes "agricultural land" reference must also be made to Tenn. Code Ann. § 67-5-1005(a)(3) which provides as follows:

> In determining whether any land is agricultural land, the tax assessor shall take into account, among other things, the acreage of such land, the productivity of such land, and the portion thereof in actual use for farming or held for farming or agricultural operation. The assessor may presume that a tract of land is used as agricultural land, if the land produces gross agricultural income averaging at least one thousand five hundred dollars ($1,500) per year over any three-year period in which the land is so classified. *The presumption may be rebutted, notwithstanding the level of agricultural income by evidence indicating whether the property is used as agricultural land as defined in this part.*
>
> [Emphasis supplied]

The administrative judge finds that the facts and issues in this appeal are quite similar to those addressed by the administrative judge in *Perimiter Place Properties, Ltd.* (Putnam Co., Tax Year 1997). In that case, the administrative judge ruled that the property was not entitled to preferential assessment as agricultural land reasoning in pertinent part as follows:

> The administrative judge finds that the evidence, viewed in its entirety, supports Putnam County's contention that subject property should not be classified as 'agricultural land' for purposes of the greenbelt law. As will be discussed immediately below, the administrative judge finds that subject property does not constitute a 'farm unit' and that any presumption in favor of an 'agricultural land' classification due to agricultural income has been rebutted.
>
> As previously indicated, the term 'agricultural land' as defined in T.C.A. § 67-5-1004(1) requires that the property constitute a 'farm unit'. The administrative judge finds that although the term 'farm unit' is not defined, subject property cannot reasonably be considered one based upon the testimony of the taxpayer's representatives.
>
> The administrative judge finds that the taxpayer constitutes a limited partnership which holds only the subject property. The administrative judge finds that although the partnership agreement was not introduced into evidence, Mr. Legge's testimony established that the taxpayer's 1988 purchase of subject property for $491,900 was unrelated to any farming purpose. The administrative judge finds it reasonable to conclude from Mr. Legge's testimony that he is a developer and

> subject property was purchased for and is still being held for development. . . .
>
> The administrative judge finds that Putnam County posed several questions concerning the method by which the taxpayer reports any farm related income for federal income tax purposes. The administrative judge finds that although no definite conclusions can be reached absent additional evidence, it appears that no separate farm schedule has been filed to reflect farm income.
>
> The administrative judge finds the testimony also supports the conclusion that any income generated from the cutting of hay or sale of timber has been done primarily to retain preferential assessment under the greenbelt program and pay taxes. The administrative judge finds that such farming-related practices must be considered incidental and not representative of the primary use for which subject property is held.
>
> ***

Initial Decision and Order at 4-5. For ease of reference, the entire decision has been appended to this order.

Since the taxpayer is appealing from the determination of the Williamson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the threshold issue concerns whether subject property constitutes a "farm unit" within the meaning of Tenn. Code Ann. § 67-5-1004(1)(A)(i). The administrative judge finds that although the term "farm unit" is not defined anywhere in the greenbelt law, subject property cannot reasonably be considered one based upon the evidence in the record.

The administrative judge finds that the taxpayer is a developer who purchased subject property solely for development purposes. Indeed, Mr. Anglin testified that when the taxpayer filed its greenbelt application it sought assurances that rollback taxes would be levied as particular acreage was developed. The administrative judge finds that any income generated from growing crops has been done to retain preferential assessment under the greenbelt program. The administrative judge finds that any farming done on subject property must be considered incidental and not representative of the primary purpose for which subject property is used or held.

The administrative judge finds the testimony clearly conflicted as to what, if any, farming activity took place on subject property in 2006. The administrative judge finds that Mr. Moss was not present to testify and his affidavit does not address this issue.

The administrative judge finds that the taxpayer's representative was unable to answer the administrative judge's query dealing with whether or how the taxpayer reports

any farm related income for federal income tax purposes. The administrative judge finds that if no separate farm schedule has been filed to reflect farm income subject property cannot be considered a "farm unit" for greenbelt purposes.

The administrative judge finds Mr. Nelson repeatedly stressed the income generated by growing crops. As the administrative judge noted at the hearing, the agricultural income presumption in Tenn. Code Ann. § 67-5-1005(a)(3) constitutes a *rebuttable* presumption. The administrative judge finds that any presumption in favor of an "agricultural land" classification due to agricultural income has been rebutted.

Based upon the foregoing, the administrative judge finds that the assessor of property properly removed subject property from the greenbelt program and the rollback taxes levied for tax years 2004-2006 are hereby affirmed.

ORDER

It is therefore ORDERED that the following value and assessment remain in effect for tax year 2007:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$15,058,400	$ -0-	$15,058,400	$6,023,360

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 14th day of April, 2008.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. L. Stephen Nelson
Dennis Anglin, Assessor of Property

EXHIBIT

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Perimeter Place Properties, Ltd. Dist. 1, Map 66D, Group B, Control Map 53M, Parcel 18.00, S.I. 000 Residential Property Tax Year 1997	)) Putnam County)))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

	LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
MKT.	$875,500	$ -0-	$875,500	$ -
USE	$ 20,100	$ -0-	$ 20,100	$5,025

An appeal has been filed on behalf of Putnam County with the State Board of Equalization.

This matter was reviewed by the administrative judge pursuant to Tennessee Code Annotated Sections 67-5-1412, 67-5-1501 and 67-5-1505. The administrative judge conducted a hearing in this matter on December 4, 1997. Putnam County was represented by Jerry Lee Burgess, Esq. The taxpayer was represented by its general partner, Bill Legge, Jr. and its property manager, Alan Ray.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 41.2 acre unimproved tract located on Old Walton and Neal Roads in Cookeville, Tennessee. It appears from Mr. Legge's testimony that approximately 2/3 of subject tract is zoned commercially and 1/3 residentially. It also appears from Mr. Legge's testimony that subject property is located in an area with various properties being used for commercial, residential and farm purposes.[1]

Putnam County contended that the Putnam County Board of Equalization erroneously ruled that subject property was entitled to receive preferential assessment as "agricultural land" pursuant to the Agricultural, Forest and Open Space Land Act of 1976 (hereafter referred to as "greenbelt"). Putnam County's position was most clearly set

[1] The administrative judge has relied on Mr. Legge's testimony insofar as Mr. Nail testified that he had not personally seen the subject property or surrounding area. Thus, any conflicts in the testimony have been resolved in Mr. Legge's favor despite the lack of exhibits such as photographs, zoning maps, etc.

forth in the attachment to the amended appeal form which provided in pertinent part as follows:

> Tennessee Code Annotated 67-5-1005 clearly states that 'the assessor shall determine whether such land is agricultural land. . . .' In this particular case, the assessor has not classified the disputed land as agriculture/farm. Furthermore, the policy of the state of Tennessee is to appraise land at its highest and best use. The land in question is being sold as commercial lots and is zoned C-3. There is great demand for this commercial property. The county board erroneously placed the property in the greenbelt program. The subject property should be assessed at fair market value as opposed to use value.

Although both the original appeal form and amended appeal form were signed by the Putnam County assessor of property, Byron Looper, he did not testify at the hearing. The only witness to testify on Putnam County's behalf was an employee of the assessor's office, Robert Nail. Essentially, Mr. Nail testified that subject property should not qualify for greenbelt because it is zoned commercial. In addition, Putnam County asserted at the hearing that "basic equity and justice" dictates that a property such as the subject not qualify for preferential assessment under the greenbelt law.

The taxpayer maintained that the Putnam County Board of Equalization properly determined that subject property was entitled to receive preferential assessment as "agricultural land" under the greenbelt law. The taxpayer contended that subject property constitutes "agricultural land" within the meaning of T.C.A. §67-5-1004(1) insofar as it is used to produce hay and timber which generates an average gross agricultural income of over $1,500.00 per year.

The administrative judge finds that the reasons underlying passage of the greenbelt law are best summarized in the legislative findings set forth in T.C.A. §67-5-1002 which provides in relevant part as follows:

> The general assembly finds that:
>
> (1) The existence of much agricultural, forest and open space land is threatened by pressure from urbanization, scattered residential and commercial development, and the system of property taxation. This pressure is the result of urban sprawl around urban and metropolitan areas which also brings about land use conflicts, creates high costs for public services, contributes to increased energy usage, and stimulates land speculation;
>
> (2) The preservation of open space in or near urban areas contributes to:

(A) The use, enjoyment and economic value of surrounding residential, commercial, industrial or public use lands;

(B) The conservation of natural resources, water, air, and wildlife;

(C) The planning and preservation of land in an open condition for the general welfare;

(D) A relief from the monotony of continued urban sprawl; and

(E) An opportunity for the study and enjoyment of natural areas by urban and suburban residents who might not otherwise have access to such amenities;

(3) Many prime agricultural and forest lands in Tennessee, valuable for producing food and fiber for a hungry world, are being permanently lost for any agricultural purposes and that these lands constitute important economic, physical, social, and esthetic assets to the surrounding lands and to the people of Tennessee;

(4) Many landowners are being forced by economic pressures to sell such agricultural, forest, or open space land for premature development by the imposition of taxes based, not on the value of the land in its current use, but on its potential for conversion to another use; and

* * *

The administrative judge finds that the policy of this state with respect to greenbelt type property is found in T.C.A. §67-5-1003 which provides in relevant part as follows:

> The general assembly declares that it is the policy of this state that:
>
> (1) The owners of existing open space should have the opportunity for themselves, their heirs, and assigns to preserve such land in its existing open condition if it is their desire to do so, and if any or all of the benefits enumerated in § 67-5-1002 would accrue to the public thereby, and that the taxing or zoning powers of governmental entities in Tennessee should not be used to force unwise, unplanned or premature development of such land;
>
> (2) The preservation of open space is a public purpose necessary for sound, healthful, and well-planned urban development, that the economic development of urban and suburban areas can be enhanced by the preservation of such open space, and that public funds may be expended by the state or any municipality or county in the state for the purpose of preserving existing open space for one (1) or more of the reasons enumerated in this section; . . .
>
> * * *

The administrative judge finds that the first question which must be answered in this appeal concerns whether subject property qualifies for preferential assessment under the greenbelt law as "agricultural land." The term "agricultural land" is defined in T.C.A. §67-5-1004(1) as follows:

> 'Agricultural land' means a tract of land of at least fifteen (15) acres including woodlands and wastelands which form a contiguous part thereof, *constituting a farm unit engaged in the production or* growing of crops, plants, animals, nursery, or floral products. "Agricultural land" also means two (2) or more tracts of land including woodlands and wastelands, one (1) of which is greater than fifteen (15) acres and none of which is less than ten (10) acres, and such tracts need not be contiguous but shall constitute a farm unit being held and used for the production or growing of agricultural products;
>
> [Emphasis supplied]

The administrative judge finds that in deciding whether a given tract constitutes "agricultural land," reference must be made to T.C.A. §67-5-1005(a)(3) which provides as follows:

> In determining whether any land is agricultural land, the tax assessor shall take into account, among other things, the acreage of such land, the productivity of such land, and the portion thereof in actual use for farming or held for farming or agricultural operation. The assessor may presume that a tract of land is used as agricultural land if the land produces gross agricultural income averaging at least one thousand five hundred dollars ($1,500) per year over any three-year period in which the land is so classified. *The presumption may be rebutted notwithstanding the level of agricultural income by evidence indicating whether the property is used as agricultural land as defined in this part.*
>
> [Emphasis supplied]

The administrative judge finds that the evidence, viewed in its entirety, supports Putnam County's contention that subject property should not be classified as "agricultural land" for purposes of the greenbelt law. As will be discussed immediately below, the administrative judge finds that subject property does not constitute a "farm unit" and that any presumption in favor of an "agricultural land" classification due to agricultural income has been rebutted.

As previously indicated, the term "agricultural land" as defined in T.C.A. §67-5-1004(1) requires that the property constitute a "farm unit." The administrative judge finds that although the term "farm unit" is not defined, subject property cannot reasonably be considered one based upon the testimony of the taxpayer's representatives.

The administrative judge finds that the taxpayer constitutes a limited partnership which holds only the subject property. The administrative judge finds that although the partnership agreement was not introduced into evidence, Mr. Legge's testimony

established that the taxpayer's 1988 purchase of subject property for $491,900 was unrelated to any farming purpose. The administrative judge finds it reasonable to conclude from Mr. Legge's testimony that he is a developer and subject property was purchased for and is still being held for development. Indeed, the administrative judge finds that Mr. Ray's testimony indicated that subject property has been offered for sale for possibly in excess of $1,500,000. Moreover, the administrative judge finds Mr. Legge testified that the taxpayer refused an $875,500 offer to purchase subject property.

The administrative judge finds that Putnam County posed several questions concerning the method by which the taxpayer reports any farm related income for federal income tax purposes. The administrative judge finds that although no definite conclusions can be reached absent additional evidence, it appears that no separate farm schedule has been filed to reflect farm income.

The administrative judge finds the testimony also supports the conclusion that any income generated from the cutting of hay or sale of timber has been done primarily to retain preferential assessment under the greenbelt program and pay taxes. The administrative judge finds that such farming-related practices must be considered incidental and not representative of the primary use for which subject property is held. For example, the administrative judge finds that the sole income generated from subject property in 1996 was a $2,000 timber sale which was characterized by Mr. Ray as something that "will cover us for this year." Similarly, the administrative judge finds that the sole income generated in 1994 and 1995 was from a barter arrangement whereby those who cut the hay were allowed to keep it in return for their efforts and "other services rendered." The administrative judge finds that the taxpayer's representatives were not even able to quantify the value of the hay cut in 1994 and 1995.

Based upon the foregoing, the administrative judge finds that subject property does not qualify for classification as "agricultural land" under the greenbelt law. Normally, the administrative judge would simply adopt the current market value appraisal of $875,500. In this case, however, Putnam County contended that subject property should be appraised at $1,300,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

The administrative judge finds that subject property should be valued at a minimum of $875,500. The administrative judge finds that Mr. Legge's testimony

established that the taxpayer refused an offer from the Putnam County Board of Education to purchase subject property for $875,500. Moreover, the administrative judge finds that subject property has been offered for sale for significantly higher amounts. Absent additional evidence, however, the administrative judge cannot determine what would constitute an appropriate increase in value.

The administrative judge finds that Mr. Nail's testimony cannot support a value of $1,300,000 or any other particular value for a variety of reasons. First, the administrative judge finds that Mr. Nail has not even seen subject property. Second, the administrative judge finds that since Mr. Nail relied on a single comparable sale which has not been seen, analyzed or adjusted in accordance with generally accepted appraisal principles, he is not competent to give an opinion of value. Third, the administrative judge finds that the sale occurred some five months after the assessment date and is technically not even relevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Assessment Appeals Commission, Cheatham County, Tax Year 1989). Fourth, the administrative judge finds that even if the foregoing problems did not exist, it is unclear how the sale of an 8.4 acre tract for $200,000 or $23,810 per acre supports a value of $31,553 per acre for a 41.2 acre tract.

The final issue before the administrative judge involves the proper subclassification of subject property. The administrative judge finds that T.C.A. §67-5-801 provides in relevant part as follows:

> (a) For the purposes of taxation, all real property, except vacant or unused property or property held for use, shall be classified according to use and assessed as hereinafter provided:
> (1) Public Utility Property. Public utility property shall be assessed at fifty-five percent (55%) of its value;
> (2) Industrial and Commercial Property. Industrial and commercial property shall be assessed at forty percent (40%) of its value;
> (3) Residential Property. Residential property shall be assessed at twenty-five percent (25%) of its value; and
> (4) Farm Property. Farm property shall be assessed at twenty-five percent (25%) of its value.
>
> * * *
>
> (c) (1) All real property which is vacant, or unused, or held for use, shall be classified according to its immediate most suitable economic use, which shall be determined after consideration of:
> (A) Immediate prior use, if any;
> (B) Location;
> (C) Zoning classification; provided, that vacant subdivision lots in incorporated cities, towns, or urbanized areas shall be classified as zoned, unless upon consideration of all factors, it

is determined that such zoning does not reflect the immediate most suitable economic use of the property;

(D) Other legal restrictions on use;

(E) Availability of water, electricity, gas, sewers, street lighting, and public services;

(F) Size;

(G) Access to public thoroughfares; and

(H) Any other factors relevant to a determination of the immediate most suitable economic use of the property.

(2) *If, after consideration of all such factors, any such real property does not fall within any of the foregoing definitions and classifications, such property shall be classified and assessed as farm or residential property.*

[Emphasis supplied]

The administrative judge finds that T.C.A. §67-5-501, in turn, provides in relevant part as follows:

* * *

(3) 'Farm property' includes all real property which is used, or held for use, in agriculture, including, but not limited to, growing crops, pastures, orchards, nurseries, plants, trees, timber, raising livestock or poultry, or the production of raw dairy products, and acreage used for recreational purposes by clubs, including golf course playing hole improvements;

(4) 'Industrial and commercial property' includes all property of every kind used, directly or indirectly, or held for use, for any commercial, mining, industrial, manufacturing, trade, professional, club (whether public or private), nonexempt lodge, business, or similar purpose, whether conducted for profit or not. All real property which is used, or held for use, for dwelling purposes which contains two (2) or more rental units is hereby defined and shall be classified as 'industrial and commercial property';

* * *

(10) 'Residential property' includes all real property which is used, or held for use, for dwelling purposes and which contains not more than one (1) rental unit. All real property which is used, or held for use, for dwelling purposes but which contains two (2) or more rental units is hereby defined and shall be classified as 'industrial and commercial property';

* * *

Given the limited evidence in the record, the administrative judge finds it most reasonable to adopt a residential subclassification for the entire tract.

ORDER

It is therefore ORDERED that subject property be removed from the greenbelt program and the following value and assessment be adopted for tax year 1997:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$875,500	$ -0-	$875,500	$218,875

The law gives the parties to this appeal certain additional remedies:

1. Petition for reconsideration (pursuant to Tenn. Code Ann. § 4-5-317). You may ask the administrative judge to reconsider this initial decision and order, but your request must be filed within ten (10) days from the order date stated below. The request must be in writing and state the specific grounds upon which relief is requested. You do not have to request reconsideration before seeking the other remedies stated below.

2. Appeal to the Assessment Appeals Commission (pursuant to Tenn. Code Ann. § 67-5-1501). You may appeal this initial decision and order to the Assessment Appeals Commission, which usually meets twice a year in each of the state's largest cities. *An appeal to the Commission must be filed within thirty (30) days from the order date stated below.* If no party appeals to the Commission, this initial decision and order will become final, and an official certificate will be mailed to you by the Assessment Appeals Commission in approximately seventy-five (75) days.

3. Payment of taxes (pursuant to Tenn. Code Ann. § 67-5-1512). You must pay at least the undisputed portion of your taxes before the delinquency date in order to maintain this appeal. No stay of effectiveness will be granted for this appeal.

ENTERED this 2d day of January, 1998.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
STATE BOARD OF EQUALIZATION

c: Perimeter Place Properties, Ltd.
Byron Looper, Assessor of Property
Jerry Lee Burgess, Esq.